

103^D CONGRESS
1ST SESSION

H. R. 1520

To amend the Petroleum Marketing Practices Act.

IN THE HOUSE OF REPRESENTATIVES

MARCH 30, 1993

Mr. WYDEN (for himself, Mr. DINGELL, Mr. SHARP, Mr. SWIFT, Mr. STUDDS, Mr. LEHMAN, Mr. PALLONE, Mr. KREIDER, Mr. MANTON, Mr. KASICH, Mr. ROWLAND, Mr. MARKEY, Mr. ACKERMAN, Mrs. COLLINS of Illinois, Mr. FIELDS of Texas, Mr. GILLMOR, and Mr. OXLEY) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Petroleum Marketing Practices Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Petroleum Marketing
5 Practices Act Amendments of 1993”.

6 **SEC. 2. CONVERSION TO COMPANY OPERATION.**

7 Section 102(b)(3)(A)(ii) of the Petroleum Marketing
8 Practices Act (15 U.S.C. 2802(b)(3)(A)(ii)) is amended
9 by inserting after “purpose of” the following: “converting
10 the leased marketing premises to operation by employees

1 or agents of the franchisor for the franchisor's own ac-
2 count or otherwise''.

3 **SEC. 3. PREEMPTION.**

4 Section 106 of the Petroleum Marketing Practices
5 Act (15 U.S.C. 2806) is amended—

6 (1) by adding at the end of subsection (a) the
7 following: "Nothing in this title shall be deemed to
8 limit the ability of a State or any political subdivi-
9 sion thereof to regulate any specific provision of a
10 franchise. No State or any political subdivision
11 thereof may adopt, enforce or continue in effect any
12 provision of any law or regulation requiring any pay-
13 ment for a franchisee's goodwill upon the occurrence
14 of a termination of a franchise or nonrenewal of a
15 franchise relationship authorized by this title."; and

16 (2) by adding at the end of subsection (b) the
17 following: "Nothing in this title shall be deemed to
18 prohibit any State from specifying the terms and
19 conditions under which any franchise or franchise
20 relationship may be transferred to a franchisee's
21 designated successor upon the franchisee's death.".

22 **SEC. 4. UNDERLYING LEASES.**

23 Section 102(c)(4) of the Petroleum Marketing Prac-
24 tices Act (15 U.S.C. 2802(c)(4)) is amended—

1 (1) by redesignating subparagraphs (A) and
2 (B) as clauses (i) and (ii), respectively and setting
3 such clauses on an 8-em indentation;

4 (2) by inserting “—” after “lease, if”;

5 (3) by designating the text which follows “lease,
6 if—” as subparagraph (A) and setting such type on
7 a 6-em indentation; and

8 (4) by adding at the end the following new sub-
9 paragraphs:

10 “(B) during the 90-day period after notifi-
11 cation was given pursuant to section 104 the
12 franchisor offers to assign to the franchisee any
13 options to extend the underlying lease or op-
14 tions to purchase the marketing premises which
15 may be held by the franchisor: *Provided*, That
16 the franchisor may condition any such assign-
17 ment upon receipt by the franchisor of—

18 “(i) an unconditional release executed
19 by both the landowner and the franchisee
20 releasing the franchisor from any and all
21 liability accruing after the date of the as-
22 signment for—

23 “(I) financial obligations under
24 any such option (or the resulting ex-
25 tended lease or purchase agreement);

1 “(II) environmental contamina-
2 tion to (or originating from) the mar-
3 keting premises; or

4 “(III) the operation or condition
5 of the marketing premises; and

6 “(ii) an instrument executed by both
7 the landowner and the franchisee assuring
8 the franchisor and its contractors reason-
9 able access to the marketing premises for
10 the purpose of testing for and remediating
11 any environmental contamination that may
12 be present at such premises; and

13 “(C) in a situation in which the franchisee
14 acquires possession of such leased marketing
15 premises effective immediately after loss of the
16 franchisor’s right to grant possession (either
17 through an assignment pursuant to subpara-
18 graph (B) above or by obtaining a new lease or
19 purchasing the marketing premises from the
20 landowner), the franchisor (if requested in writ-
21 ing by the franchisee within 30 days after noti-
22 fication was given pursuant to section 104),
23 during the 90-day period after notification was
24 given pursuant to section 104, either—

1 “(i) made a bona fide offer to sell,
2 transfer, or assign to the franchisee such
3 franchisor’s interest in any improvements
4 or equipment located on such premises; or

5 “(ii) if applicable, offered the
6 franchisee a right of first refusal of at
7 least 45 days duration of an offer, made by
8 another, to purchase such franchisor’s in-
9 terest in such improvements and equip-
10 ment.”.

11 **SEC. 5. WAIVER OF RIGHTS.**

12 Section 105 of the Petroleum Marketing Practices
13 Act (15 U.S.A. 2805) is amended by adding at the end
14 the following new subsection:

15 “(f)(1) No franchisor shall require, as a condition of
16 entering into or renewing the franchise relationship, a
17 franchisee to release or waive—

18 “(A) any rights under this title or other Fed-
19 eral law; or

20 “(B) any rights the franchisee may have under
21 any valid and applicable State law.

22 “(2) No provision of any franchise shall be valid or
23 enforceable which specifies that the interpretation or en-
24 forcement of the franchise shall be governed by the law

- 1 of any State other than the State in which the franchisee
- 2 has its principal place of business.”.

